

EXHIBIT I

Commonwealth v. Claitt

N.T. 9/17/81

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CRIMINAL TRIAL DIVISION

COMMONWEALTH

- - -
CP
: APRIL TERM, 1979

: NO. 809-UNAUTH USE AUTO
810-THEFT, RSP

- - -
: MAY TERM, 1980

CP
: 1024-THEFT, RSP

: 1025-UNAUTH USE AUTO
- - -

: AUGUST TERM, 1980

CP
: NO. 2093-ATT ARSON PERS
ATT ARSON PROP

: 2094-ATT CRIM MISCH

: 2095-PIC GEN

: PIC WEAPON

: PROHIB OFF WEAPON

: 2096-RISK CAT

: 2097-CONSPIRACY
- - -

EMANUEL M. CLIAFF

Room 615, City Hall

Philadelphia, Pennsylvania
- - -

September 17, 1981
- - -

BEFORE:

HONORABLE LEON KATZ, DISTRICT ATTORNEY'S OFFICE

RECEIVED

SEP 19 1981

PRESENT:

LEONARD ROSS, ESQUIRE
Assistant District Attorney
For the Commonwealth

MYRON DEUTSCH, ESQUIRE
Court Appointed Counsel
For the Defendant

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COMMONWEALTH VS. EMANUEL M. CLIATT

SEPTEMBER 17, 1981

MR. ROSS: Your Honor, the matter that's before us is Commonwealth vs. Emanuel Cliatt. There are five matters before you. Two matters, and I will give you, for the record, Mr. Cliatt has already pled guilty to.

THE COURT: What are the bill numbers?

MR. ROSS: They are CP 8008, 1067, charging the defendant with manufacture with intent to deliver a controlled substance. Also before Your Honor deferred is 8008, 1328 to 1330, which is another drug case, which the defendant pled guilty to. And to be honest with you, I'm not sure, I think it's again with possession with intent to deliver.

Then there are three open matters that are listed before you, Your Honor. They are CP 8008, 2093 to 97, charging the defendant with various charges, involving arson, criminal mischief, risking catastrophe, conspiracy. This case, Mr. Cliatt will enter a guilty plea

as to one of those bills, and the other bills, with regard to that case, will be nol-prossed.

The other two cases that remain, that are open, are 7904-809 and 810, which will be nol-prossed upon sentencing, and 8005, 1024 to 1025, which will be nol-prossed--

THE COURT: 80 what?

MR. ROSS: 8005, 1024 and 1025. That will also be nol-prossed after Your Honor sentences Mr. Cliatt.

Those two cases, Your Honor, both involve the possession and use of stolen automobiles. Those are the two cases that the Commonwealth is going to nol-pros.

Mr. Cliatt will be pleading guilty to the one bills that's remaining, number, that's Bill 2097, Judge, August of 1980.

THE COURT: What's the charge?

MR. ROSS: Charging the defendant with criminal conspiracy, where the object is arson, risking catastrophe; overt act, did possess an explosive device. Co-defendants in the case are George Rose, George Tillary, and Douglas Smith, and George Grant.

THE COURT: Are there any other cases other than the ones you mentioned that are open or pending against this defendant?

MR. ROSS: No. Is that right?

MR. DEUTSCH: No.

MR. ROSS: I believe.

MR. DEUTSCH: The only thing is--

MR. ROSS: Montgomery County.

THE COURT: I'm talking about
Philadelphia.

MR. DEUTSCH: In Philadelphia, no, sir.

MR. ROSS: This is it, Judge.

MR. DEUTSCH: It involves an automobile.

THE COURT: Are you saying to me that if and when he pleads guilty to 2097, and the others are nol-prossed at the time of sentencing, then all of the cases pending against him are completed in Philadelphia County?

MR. ROSS: Yes, that's my understanding, Judge.

MR. DEUTSCH: That's right.

THE COURT: Any you're prepared for sentencing on the other matters today?

MR. DEUTSCH: If I may, Your Honor--
(Conference by defense counsel with defendant off the record.)

THE COURT: I don't want to have a piecemeal sentence because this case has been kicking around a long time.

MR. ROSS: I agree with Your Honor.
~~I think the sentence should all be imposed~~
on one day. The Commonwealth has no objection to however it's done. If Mr. Cliatt wants to plead guilty today and be sentenced on all of them, that's fine. If he wants to be continued, that's fine. Whatever Mr. Cliatt wants.

THE COURT: How about the matter that we discussed earlier, matters that are pending, without going into detail?

MR. ROSS: Without going into detail, Mr. Cliatt has continued his cooperation, Your Honor.

THE COURT: You feel confident that that cooperation will continue even after

sentencing?

MR. ROSS: Yes, it does, Your Honor, because Mr. Cliatt knows that should he not cooperate, then the Commonwealth's safekeeping of him will stop.

THE COURT: Are you prepared to make a recommendation as to sentencing in all these cases?

MR. ROSS: As part of the negotiation the Commonwealth agreed to make no recommendation, so that we are bound not to make a recommendation.

MR. DEUTSCH: I was informed, while sitting in Your Honor's courtroom, by Mr. Cliatt, that some of this cooperation Mr. Ross speaks about has extended to certain other areas that Mr. Ross is not responsible for.

THE COURT: In Philadelphia?

You don't have to say what, is it in Philadelphia?

MR. ROSS: Can we have a second?

(Conference by district attorney with defense counsel off the record.)

MR. DEUTSCH: Perhaps I should

speak to you at side bar?

THE COURT: Is he prepared to plead guilty now to the one bill?

(Conference by defense counsel with defendant off the record.)

THE COURT: Otherwise I can sentence him on the other bills and he could ask for a jury trial, or non-jury trial on the other bill.

(Conference by defense counsel with defendant off the record.)

MR. DEUTSCH: All right.

(Off the record discussion in open court.)

MR. DEUTSCH: Mr. Cliatt is prepared to plead to one bill out of the, I think, Bill 2097.

THE COURT: Conspiracy.

MR. DEUTSCH: Yes. And--

THE COURT: Agree that the other bills will be nol-prossed at the time of sentencing.

MR. DEUTSCH: Yes, that was the agreement, Your Honor. And that's been the

agreement for some time.

THE COURT: Do you have that bill here?

COURT CLERK: Yes, I do, Judge.

THE COURT: Let's go on with the guilty plea.

MR. ROSS: Does Your Honor wish me to conduct the colloquy?

THE COURT: Yes.

(Whereupon defendant approached the bar of the court.)

EMANUEL M. CLIATT, 5148 Green Street, SWORN:

MR. ROSS: Mr. Cliatt, how old are you?

THE DEFENDANT: Twenty-eight.

MR. ROSS: Do you read, write, and understand the English language?

THE DEFENDANT: Yes, I do.

MR. ROSS: How far did you go in school?

THE DEFENDANT: Eleventh grade.

MR. ROSS: Are you presently under the influence of any narcotics or alcoholic

beverages?

THE DEFENDANT: No.

MR. ROSS: Where are you presently located, in terms of where you're living-- strike that--are you presently incarcerated or out on the street?

THE DEFENDANT: Incarcerated.

MR. ROSS: And how long have you been incarcerated?

THE DEFENDANT: Three months.

MR. ROSS: Approximately?

THE DEFENDANT: As of today, three months.

MR. ROSS: Now, Mr. Cliatt, have you ever been under the care of a psychiatrist or in a mental institution?

THE DEFENDANT: No.

MR. ROSS: Do you understand that you're here today charged with, in this particular case, four Bills of Indictment involving a fire bombing that occurred on or about November 11th, 1979? Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: And that you are accused, along with others, of having attempted to blow up a certain house. Do you understand that?

THE DEFENDANT: Yes.

THE COURT: What's the date?

MR. ROSS: November 11th, 1979.

THE COURT: All right.

MR. ROSS: Now, you understand,

Mr. Clatt, that you have an absolute right to go to trial on all the Bills of Information that are presented against you regarding that attempted bombing. Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: Do you understand that at that trial you would have a right to either have a jury trial or a trial by a judge sitting without a jury? If you chose to be tried by a jury you would participate, along with your counsel, in selecting members of the community that would sit in judgment of you. They would hear the case and listen to the evidence and then decide whether or not the Commonwealth proved you guilty beyond

a reasonable doubt. Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: And do you understand that those citizens would be your peers, that is, jury would be selected from the citizens of Philadelphia? Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: Do you understand that their verdict would have to be unanimous, Mr. Cliatt, that is, all twelve of the people that you and your counsel, along with the district attorney and the judge selected to be on the jury, would have to be convinced beyond a reasonable doubt that you were guilty before you could be found guilty?

THE DEFENDANT: Yes.

MR. ROSS: Do you understand, further, that the burden of proof that the Commonwealth has is that of a reasonable doubt. That means that the Commonwealth has to prove, through the evidence, to a jury's satisfaction, or to the judge's satisfaction, that you were guilty beyond a reasonable doubt. And reasonable doubt is the kind of doubt

that would arise from the evidence or the lack of evidence that would cause a reasonable man to refrain from acting in a matter of the utmost importance to himself. Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: That that's how the Commonwealth would have to prove you guilty, beyond a reasonable doubt. Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: If you went to trial you would have the right, whether it was a jury trial or a waiver trial, to cross examine the witnesses that were presented against you. That is, the witnesses would be called to testify. You would listen to their direct testimony and your attorney would have the right to ask them questions. That's called cross examination. However, by pleading guilty you're giving up your right to confront those witnesses against you and instead, the Commonwealth would merely give a summary to the judge about the incident. Do you under-

stand that?

THE DEFENDANT: Yes.

MR. ROSS: Now, if you went to trial you would also have the right to testify and present evidence in your own behalf. However, if you did not wish to testify or present evidence in your own behalf, there is nobody that could force you to do so. But, if you chose to do so, you could. Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: Now, by pleading guilty you're giving up various other rights. For instance, if you went to trial you would have the right to present to this Court what's called a Motion to Suppress. You could allege that a statement that you gave to the detectives about this case was gotten in violation of your legal rights. And, you could ask the Court to rule that the Commonwealth could not use that statement. By doing so, if the Court agreed with you, the Commonwealth would be precluded from using that against you. Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: By pleading guilty, however, you are giving up all your rights to argue a Motion to Suppress, and you're saying to the Court that all the evidence that the Commonwealth has can be used against you. Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: Now, I indicated to you that there were two types of trial. If you chose to be tried without a jury, then the judge alone would have to be convinced beyond a reasonable doubt that you were guilty, instead of the twelve people of the jury. Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: Everything else would be the same. You would have the same rights and the same rules would apply, whether it was a jury trial or a non-jury trial. Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: Mr. Cliatt, by pleading guilty you are giving up certain appellate

rights. That is, if you were found guilty you would have the right to argue in the Superior Court of Pennsylvania that certain mistakes were made during your trial, and ask them to either discharge you or to grant you a new trial.

By pleading guilty, however, you are limiting your rights to raise certain issues on appeal, and you're limited to three issues. The only issues that you could raise on appeal by pleading guilty are, the jurisdiction of the Court, that is, whether or not the incident happened in Philadelphia; the legality of the sentence that is finally imposed upon you by this Court; and, the voluntariness of your plea. Those are the only three things that you could raise on appeal. Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: Do you understand that by answering these questions you're indicating to the Court in that you are making a voluntary plea, that is, that you, nobody is forcing you to do this. Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: Do you understand you're further bound by your answers today? You cannot change your mind tomorrow and say that you didn't understand what was asked of you if today you said you understood it.

THE DEFENDANT: Yes.

MR. ROSS: Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: Now, with regard to sentencing in this particular case, you will be pleading guilty to a conspiracy bill where the maximum penalty is five to ten years in prison. Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: That means that when the judge sentences you, unless the sentence exceeds that five to ten year period, that would even limit your appellate rights even further. Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: Now, by pleading guilty to conspiracy what you are pleading guilty to is the fact that you made an agreement

with one or more other individuals to do a crime. In this particular case we're saying that the crime was arson and making a bomb to explode an individual's house. Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: And that by pleading guilty you are agreeing with the Commonwealth that you did an overt act, in this particular case, the overt act is that you did possess an explosive device, the one that was actually attempted to bomb the house. Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: Do you understand by pleading guilty you are admitting that the facts contained in the Bill of Information, that is, that you did make the agreement, that you did have that criminal objective, and that you did that overt act in fact are true? Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: All right. Now, has anybody threatened you or forced you in any

way to get you to plead guilty here today?

THE DEFENDANT: No.

MR. ROSS: Are you doing this of your own free will and based on your own decision, after consultation with your attorney and discussions about this?

THE DEFENDANT: Yes.

MR. ROSS: Are you satisfied with Mr. Deutsch as your lawyer, in that you feel that he's had enough time to properly prepare the case, does he know enough about the case to properly represent you, and give you the advise that he's given you?

THE DEFENDANT: Yes.

MR. ROSS: Do you understand further that by pleading guilty here today you are giving up all rights you have to putting forward a defense. I'm not sure what kind of defense you could have in an arson and a bombing case, but for instance, you could say at some point that you didn't know what you were doing was wrong because you were mentally ill. That would be an insanity defense. By pleading guilty here today you could not later

raise that on appeal and say you should not have pled guilty because at the time you had a defense available to you, whether it was true or not, doesn't make any difference. So, that you could not raise on appeal the fact that you wanted to raise a defense. Do you understand that?

THE DEFENDANT: Yes.

MR. ROSS: Do you have any questions now, Mr. Cliatt, with regard to your guilty plea?

THE DEFENDANT: No.

MR. ROSS: Does Your Honor have any additional questions?

THE COURT: No.

MR. DEUTSCH: I have no questions.

THE COURT: Do you understand there are no promises?

MR. ROSS: I'm sorry.

THE COURT: Here, as there aren't in the other cases, as to what your sentence would be. You've been told there's a possibility of a maximum of five to ten years plus a fine. And although that's the maximum,

that's not an indication you will get it, nor is there any indication that you won't get the maximum. Is that clear, or any other sentence in between?

THE DEFENDANT: Yes, sir.

THE COURT: All right.

COURT CRIER: Emanuel M. Cliatt, to this Bill of Information 2097, August Sessions, 1980, charging you with criminal conspiracy, to this Bill of Information how say you, guilty or not guilty?

THE DEFENDANT: Guilty.

COURT CRIER: Your Honor, defendant pleads guilty to Bill of Information Number 2097.

MR. ROSS: Your Honor, a brief summary of the facts, just for the record, if I might.

THE COURT: Yes.

MR. ROSS: Your Honor, on November 11th, 1979, at 5935 Wister, W-I-S-T-E-R street, in the County of Philadelphia, there was an explosive device that was placed on the porch of the home, of an individual by

the name of Kenneth Washington. At that time the device did not explode.

It was subsequently taken by the Philadelphia bomb squad and subsequently exploded at the Police Academy in an area that they have designed specifically for the exploding of explosives that have been confiscated.

Some time in 1980 Mr. Cliatt came forward, after a number of statements that he gave to the police regarding other cases, he gave the police a statement indicating his involvement in the attempted bombing of the home that was owned by Kenneth Washington. In that he indicated that he made an agreement, if not oral, certainly a tacit agreement with George Tillary, who was a business associate, George Rose, who was a business associate, and Douglas Smith, who was a business associate of Mr. Cliatt's, and all of them were part of the same business conspiracy at the time to get even with Mr. Washington for certain wrongs that had been committed against Major Tillary.

In the statement Mr. Cliatt indicated to the police that he was instrumental in picking up certain explosives from an individual named George Grant. He was also present at the time the explosive device was placed at Mr. Washington's home, was there at the time, although he didn't participate other than being there. That when the explosive device did not go off, several gun shots were fired at it in an attempt to make it explode, which it didn't. And eventually they left the scene.

Mr. Cliatt has reiterated the statement he gave to the police at two separate preliminary hearings involving George Rose and Douglas Smith, who have been apprehended and their cases are pending before this Court with regard to the bombings.

That in brief summary, Your Honor, is the matter that Mr. Cliatt is pleading guilty to.

Mr. Cliatt, do you understand the facts as I've just basically summarized them to the Judge?

THE DEFENDANT: Yes.

THE COURT: Do you have any corrections as to the facts as read by the D.A.?

THE DEFENDANT: No, sir.

THE COURT: All right.

MR. ROSS: That would be all I have for the summary. Mr. Cliatt has indicated he already pled guilty.

THE DEFENDANT: Yes.

THE COURT: He's entered a plea on this bill already.

MR. ROSS: Yes, he did, Your Honor.

THE COURT: Let me recapitulate what I have. This case has been on the books for some time. I have a guilty plea on Bill 8008-1067, which is for the manufacture and sale of drugs, which carries a maximum sentence of fifteen years.

MR. ROSS: That's correct.

THE COURT: I also have a guilty plea previously entered by the defendant on 8008, 1329, which is possession of drugs, which carries a maximum sentence, if it's the first offense, as I believe it is, of one

year. Is that correct?

MR. ROSS: I defer to Your Honor. I think that is correct. I was unclear when I gave you the brief summary.

THE COURT: That's why I'm correcting it. My record indicates 1329.

MR. ROSS: All right.

THE COURT: Today he's pled guilty to Bill 8008-2097, which is the conspiracy bill, arson, involving a fire bombing wherein we just heard the summary. And, that has a five to ten year maximum sentence. Is that correct?

MR. ROSS: That's correct, Your Honor. Your Honor, if I might just interrupt, I would just also remind the Court, or perhaps let the Court know, for the first time, as part of the plea agreement, although we make no recommendation as to the sentence, we do, as part of it, ask the Court to give Mr. Cliatt one sentence, and to have the other sentences run concurrently. That was part of the agreement that whatever sentences he got would run concurrently, so whatever maximum Your Honor

has determined, and minimum, make that on one bill and then have the others to run concurrent with that.

THE COURT: All right. All the other bills that are open against this defendant in Philadelphia County only, because I don't have jurisdiction in the others, and the others are to be nol-prossed at the time of sentencing which will be today.

MR. ROSS: The bills that are before Your Honor, today.

THE COURT: That includes the recent bills that you mentioned, 8005, 1024 and 1025, possession and use of the automobiles.

MR. ROSS: That's correct, Your Honor.

THE COURT: All right.

MR. ROSS: And also 7904, 809.

THE COURT: Yes.

MR. ROSS: Which is another theft of an auto. There are two separate incidents, two separate cars.

THE COURT: Either of you gentleman or the defendant wish to say anything before

I pronounce sentence, and of course, I assume we all agree at this time that both defense counsel, the D.A., has examined the pre-sentence investigation, mental health evaluation, and unless I hear to the contrary I will assume that there are no corrections as far as the factual and history contained therein.

MR. DEUTSCH: I think there was just one correction that Mr. Cliatt is the father of three children. I noticed it said two children.

THE COURT: All right.

MR. DEUTSCH: And that's the only thing I saw.

THE COURT: Also the drug evaluation which I didn't mention.

MR. DEUTSCH: Yes, we have read it. That was provided before this hearing and we have read it.

THE COURT: I also want to put on the record that I have received from Leonard N. Ross, assistant district attorney of the homicide unit, a letter dated January 5th, 1981, and without being specific, for reasons

that I think we all concur, Mr. Ross has outlined a pattern of cooperation of a meaningful nature on the part of the defendant. And, that in response to my question, Mr. Ross has indicated that he's confident that that cooperation will continue. Is that correct, sir?

MR. ROSS: Yes, Your Honor. And if it doesn't there's, I'm confident--

THE COURT: For whatever reason you're confident, you are confident it will continue.

MR. ROSS: Yes, sir.

THE COURT: Am I to understand from the defendant and/or counsel, that the defendant has been incarcerated for a period of three months on this case, or on one of these cases as a result of a bench warrant that I issued?

MR. DEUTSCH: That's correct. That's as a result of a bench warrant alone.

THE COURT: Whatever time I give him, he has approximately three months credit.

MR. ROSS: Judge, actually, to be

honest, he's probably got close to a year on these cases. What was basically happening, Judge, is just to be very quick about it, and it's hard to distinguish exactly what, he had so many cases open and so many detainers and bench warrants, that's something the prison may have to figure out. He was released for a period of time and then he wouldn't show up when he was supposed to and he would be arrested for a while--

THE COURT: We're not going to get involved in that mathematics. It's not germane to what the sentence is.

MR. ROSS: Whatever the sentence Your Honor gives, if you just add the words "To be given credit for whatever time he's served on these cases," and if that's a problem we can certainly straighten it out at a later date.

MR. DEUTSCH: I understand--I recognize the seriousness of the charges to which the defendant has pled guilty. And, I'm sure the district attorney shares that with me as does his counsel. I also recognize the

importance of the cooperation that he's extended.

THE COURT: Must keep in mind that although one cooperates with the Commonwealth, we cannot wash out the fact that he's been convicted of at least nine crimes, possibly more, including the crimes to which he pled guilty today, because as of the time of the pre-sentence investigation, as stated on the face sheet, he was convicted of seven crimes and he's pled guilty today to another one, so it's at least eight.

He's had two commitments. He's had one probation violation, without any juvenile record.

The recommendation of the pre-sentence investigator is incarceration. And, if it were not, if it were not for the cooperation extended to the Commonwealth, I would think that full justification that this defendant should receive a maximum sentence of seven and a half to fifteen years on the drug charge, namely 1067, manufacture, sale, and delivery of drugs. Not that I'm minimizing the other

charges, such as the conspiracy to fire bomb the house and the possession of the drugs.

However, I'm taking that into consideration because I think, in the field of law enforcement, that there are many times when we cannot prosecute career criminals or criminals who commit acts of violence without the cooperation of either co-defendants or others who have information. And that's, I think, what is present in this case.

MR. ROSS: Judge, might I just comment briefly on that one fact for the record, so Your Honor will have some--

THE COURT: Please do.

MR. ROSS: In these particular cases, Your Honor, none of those cases could have been brought to trial without Mr. Cliatt's statements. The two homicide matters, as well as the bombings, although we basically knew who was involved, Judge, we had no hard evidence to present to a Court until Mr. Cliatt made his statements. Everything that you said in general terms is specifically true in this particular case. Those five

cases or so that have been presented, and people have been arrested for, could not have happened without Mr. Cliatt's statements and cooperation.

THE COURT: I think that the defendant should be subject to the parole authorities.

What happened in the probation cases? Didn't he have three probations pending?

MR. DEUTSCH: As I understand it, Your Honor, we tried a case a number of years ago before Judge Kubacki and he's the one that put him on the probation. Although, there's been some arrests and detainers and back and forth, it's always been with Judge Kubacki. It was a five year probation and we got through about three and a half, almost four without too much trouble, and it was only in the last year of the probation that it began to break down from these other matters. The actual date of expiration was July 10th, 1981. If you take it into five annual years.

MR. ROSS: The other judge, Judge Caesar, was the Municipal Court case of which

Mr. Cliatt appealed and then Judge Kubacki had the exact same case. So, there really is only one judge in terms of probation, and the only one that's active is Judge Kubacki. And I would say for the record, Judge Kubacki's indication was that probably, regardless of what Your Honor did, he would terminate his probation since you would have him under some kind of supervision, either your own personal supervision or state parole supervision if Your Honor were to sentence him.

THE COURT: Do you have anything to say, Mr. Cliatt, yourself?

MR DEUTSCH: Could we start, Your Honor, with my discussing that matter with you at side bar, and then--

THE COURT: What matter, sentencing matter?

MR. DEUTSCH: No, having to do originally when we talked about some cooperation, there was something I wanted to say off the record.

THE COURT: All right.

(Conference in chambers off the

record.)

(The following is in open court:)

THE COURT: All right, Mr. Cliatt, for the reasons that I've stated, and upon analysis of the pre-sentence report, mental health evaluation, the drug evaluation, the letter from Mr. Ross that I alluded to dated January 5th, 1981, sentence of the Court is as follows--

MR. ROSS: Judge, excuse me for just one second. before you do that, the question that you asked Mr. Cliatt, whether he had anything to say remained unanswered.

THE COURT: Do you have anything to say, sir, before I sentence?

THE DEFENDANT: Yes, sir.

THE COURT: Please say it.

MR. DEUTSCH: He did want to address the Court.

THE COURT: Go ahead.

THE DEFENDANT: What I wanted to say was, that as far as my life, as far as my life of being involved in crime, you know, I think, not only think, I know that, you know,

I'm through with crime as far as I'm concerned because, you know, I'm not accepted amongst the hustlers and people in the street, doing the things that are wrong, because I have told and testified on these people. My type is not accepted amongst that type no more. I'm saying whatever you sentence me to today, Your Honor, like, you know, after this, you know, this is it.

THE COURT: What you're saying to me is you really don't have any choice because you're not going to be trusted, in a way. That's a hard way of walking the straight and narrow, but apparently that's, whatever reason it is, we should all be thankful that you're going to get out of the field of crime.

THE DEFENDANT: Yes, sir.

THE COURT: For your own sake, it would have been better if you never got in as deeply as you did. Nevertheless, is there anything else you want to say?

THE DEFENDANT: No, Your Honor.

THE COURT: On Bill 1057, which is the drug bill that I mentioned, wherein the

maximum is fifteen years, sentence of the Court is to undergo a period of incarceration of not less than eighteen months nor more than seven years.

On Bill 1329, which is the possession, where the maximum is one year, the sentence of the Court is six to twelve months to run concurrently with the bill imposed on 1067.

On Bill 2037, which is the conspiracy and fire bombing case, where the maximum is ten years, the sentence of the Court is to undergo a period of incarceration of not less than one nor more than five years. And that sentence is to run concurrently with the sentence imposed on 1067.

I will entertain a motion to nol-pros all other bills.

MR. ROSS: Judge, I will move to nol-pros all the remaining bills that are before you.

THE COURT: Motion is granted. All other bills are nol-prossed.

Mr. Ross, would you advise him as to his rights to appeal any or all of the

sentences imposed today?

MR. ROSS: Mr. Clatt, you have thirty days from today in which to appeal the sentences that have just been handed down on all these cases. Since you pled guilty, as I indicated, you're appellate rights are severely limited.

If you do not notify that you wish to appeal within thirty days, your right to appeal will be considered to be waived.

You have, however, ten days also for you to file a motion with this Court to modify the sentence that was imposed upon you, and you must do that prior to your perfecting your appeal or notice of appeal to the Superior Court.

If you cannot afford to have a lawyer to represent you, one will be appointed for you free of charge. Mr. Deutsch will notify the appellate court if you wish to appeal, if you want to do so, and then a lawyer will be appointed for you if you could not afford one and wanted one. Do you understand that?

THE DEFENDANT: Yes.

THE COURT: Do you have any questions about your sentence?

MR. DEUTSCH: Would Your Honor be kind enough in some way to indicate on the record that he, it's your understanding that he's to get credit through the prison authorities for all time served?

THE COURT: I will make that very clear. It's the intention of this Court for the defendant to get any and all credit that he's entitled to. All right.

THE DEFENDANT: Thank you.

MR. DEUTSCH: Thank you.

* * *